

8/20/19

JULIA C. DUDLEY, CLERK
BY: s/ ELLA SURBER
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

PATRICK PIZZELLA,
ACTING SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,
Plaintiff,

v.

BLACKJEWEL, LLC, a corporation, BLACKJEWEL
HOLDINGS, LLC, a corporation, REVELATION
ENERGY HOLDINGS, LLC, a corporation,
REVELATION MANAGEMENT CORPORATION,
a corporation, REVELATION ENERGY, LLC, a
corporation, DOMINION COAL CORPORATION, a
corporation, HAROLD KEENE COAL CO., LLC, a
corporation, VANSANT COAL CORPORATION, a
corporation, LONE MOUNTAIN PROCESSING,
LLC, a corporation, POWELL MOUNTAIN
ENERGY, LLC, a corporation, and CUMBERLAND
RIVER COAL, LLC, a corporation,

Defendants.

Civil Action No: 1:19CV34

COMPLAINT

Plaintiff Patrick Pizzella, Acting Secretary of Labor, United States Department of Labor (“Plaintiff”) brings this action to enjoin Blackjewel, LLC, Blackjewel Holdings, LLC, Revelation Energy Holdings, LLC, Revelation Management Corporation, Revelation Energy, LLC, Dominion Coal Corporation, Harold Keene Coal Co., LLC, Vansant Coal Corporation, Lone Mountain Processing, LLC, Powell Mountain Energy, LLC, and Cumberland River Coal, LLC (collectively, “Defendants”) from violating the provisions of Sections 6, 7, 15(a)(1) and 15(a)(2) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (“the Act”), and for a judgment against Defendants in the total amount of back wage compensation found by the Court to be due to any of the employees of Defendants pursuant to the Act and an equal amount due to the employees of Defendants in liquidated damages. Plaintiff also seeks a

temporary restraining order, preliminary injunction and permanent injunction restraining Blackjewel Marketing and Sales, LP and Blackjewel Marketing and Sales Holdings, LP¹ (collectively “BJMS”) and Defendants from violating Section 15(a)(1) of the Act by transporting, offering for transportation, shipping, delivering, or selling in commerce or shipping, delivering or selling with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods, including but not limited to coal, produced in violation of Sections 6 and 7 of the Act.

1. Jurisdiction of this action is conferred upon the Court by Sections 16(c) and 17 of the Act, 29 U.S.C. §§ 216(c) and 217, and by 28 U.S.C. §§ 1331 and 1345.

2. Defendants are, and at all times hereinafter referenced were, corporations with headquarters at 1051 Main Street, Milton, WV 25541, which is within the jurisdiction of this Court. Defendants are in the business of operating surface and underground coal mines, preparation or wash plants, and loadouts or tipples at multiple facilities in Virginia, West Virginia, Kentucky and Wyoming.

3. Defendants also operate a facility located at Raven Dock, 219 Raven Dock Road, Raven, VA 24639. Raven Dock is a facility at which Defendants stockpile coal produced by their employees for transport in commerce. At present, approximately 20,000 tons of metallurgical

¹ Records suggest Blackjewel Marketing and Sales, LP, and Blackjewel Marketing and Sales Holdings, LP, also operate and/or do business under the names Blackjewel Marketing and Sales, LLC, and Blackjewel Marketing and Sales Holdings, LLC. By naming Blackjewel Marketing and Sales, LP and Blackjewel Marketing and Sales Holdings, LP, Plaintiff intends to seek relief against any entity that seeks to possess, transport, transfer, purchase or otherwise place into commerce the hot goods addressed in this Complaint and the Secretary of Labor’s Application for Temporary Restraining Order, including but not limited to entities that operate and/or do business under the names Blackjewel Marketing and Sales, LLC, and Blackjewel Marketing and Sales Holdings, LLC.

coal produced by Defendants' employees and valued at \$140-\$160 per ton (at least \$2.5 million) are stockpiled at Raven Dock.

4. Additionally, Defendants operate a facility located at Flat Rock Prep Plant, 1399 Bee Hive Hollow, Honaker, VA 24260. Flat Rock Prep Plant is a facility at which Defendants process coal produced by their employees for transport in commerce. At present, there are approximately 1,800 tons of clean coal and 15,000 tons of raw coal at the Flat Rock Prep Plant.

5. Defendants also operate a facility located at Pigeon Creek Processing Plant, 78 North Stonega Road, Appalachia, VA 24216. At present, there are approximately 53,038 tons of clean coal and 4,202 tons of raw coal that is worth approximately \$2,726,214 at the Pigeon Creek Processing Plant.

6. At all times hereinafter mentioned, Defendants have been an enterprise within the meaning of Section 3(r) of the Act, in that Defendants have been, through unified operation or common control, engaged in the performance of related activities for a common business purpose. These activities constituted (and/or were related to) providing security services in the furtherance of the business purposes of Defendants' unified business entity.

7. At all times relevant herein, Defendants have employed, and are employing, employees in and about their place of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. Specifically, employees handle, sell and otherwise work with coal produced for interstate commerce. Further, at all times relevant herein, Defendants have had annual gross volume sales made or business done of not less than \$500,000, thereby affording coverage over all their employees pursuant to Section 3(s)(1)(A) of the Act.

8. During the period from June 10, 2019 through July 1, 2019 (“relevant period”), Defendants employed the individuals listed in the attached Schedule A (collectively referred to hereinafter as “employees”) at some point during the relevant period.²

9. Defendants violated the provisions of Sections 6 and 15(a)(2) of the Act by employing their employees in an enterprise engaged in commerce or in the production of goods for commerce and compensating these employees at rates less than the applicable statutory minimum rate prescribed in Section 6 of the Act. Therefore, Defendants are liable for unpaid minimum wages and an equal amount of liquidated damages under Section 16(c) of the Act.

10. For example, during the relevant period, Defendants paid employees a pay rate less than the minimum wage. Defendants failed to pay employees any wages for hours worked. Defendants’ failure to pay their employees for hours worked violated Sections 6 and 15(a)(2) of the Act.

11. Defendants violated the provisions of Sections 7 and 15(a)(2) of the Act by employing their employees in an enterprise engaged in commerce or in the production of goods for commerce for workweeks longer than those prescribed in Section 7 of the Act without compensating said employees for hours worked over 40 in a workweek at rates not less than one and one-half times their regular rates. Therefore, Defendants are liable for the payment of unpaid overtime compensation and an equal amount of liquidated damages under Section 16(c) of the Act.

12. For example, during the relevant period, Defendants failed to compensate their employees who worked over 40 hours in a workweek one and one-half times their regular rate.

² Plaintiff requested employment records from Defendants in order to readily identify all affected employees. Defendants have not provided these records yet. Accordingly, Plaintiff reserves the right to revise the Schedule A once these records are received.

Defendants failed to pay employees any wages for hours worked over 40 in a workweek. This practice violated Sections 7 and 15(a)(2) of the Act.

13. As a result of the violations alleged above, amounts are owed for hours worked that were paid at rates less than the rate set forth in Sections 6 and 7 of the Act for the employees named in Schedule A attached to this Complaint. Additional amounts may be due to other employees employed by Defendants during the time period covered by this Complaint (and continuing up to the time Defendants demonstrate that they came into compliance with the Act) whose identities are not now known to the Plaintiff.

14. Section 15(a)(1) of the Act provides that it shall be unlawful for any person to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of Sections 6 or 7 of the Act.

15. During the relevant period, Defendants transported coal – worked on/processed by employees who Defendants failed to pay the overtime premium rate for hours worked over forty in a workweek, and the federal minimum wage in violation of Sections 6 and 7 of the Act during the relevant period – from Raven Dock and across state lines into Kentucky. Defendants' transport of these "hot goods" into commerce was a direct violation of Section 15(a)(1) of the Act.

16. The 20,000 tons of metallurgical coal currently stockpiled at Raven Dock were worked on/processed by employees whom Defendants failed to pay the overtime premium rate for hours worked over forty in a workweek, and the federal minimum wage in violation of Sections 6 and 7 of the Act during the relevant period. Accordingly, the 20,000 tons of metallurgical coal currently stockpiled at Raven Dock were worked on/processed in violation of

the minimum wage and overtime requirements of Sections 6 and 7 of the Act. The shipment, sale, transport, or otherwise placement of these “hot goods” in commerce would violate the provisions of Section 15(a)(1) of the Act.

17. The 1,800 tons of clean coal and 15,000 tons of raw coal at the Flat Rock Prep Plant were worked on/processed by employees whom Defendants failed to pay the overtime premium rate for hours worked over forty in a workweek, and the federal minimum wage in violation of Sections 6 and 7 of the Act during the relevant period. Accordingly, the 1,800 tons of clean coal and 15,000 tons of raw coal at the Flat Rock Prep Plant were worked on/processed in violation of the minimum wage and overtime requirements of Sections 6 and 7 of the Act. The shipment, sale, transport, or otherwise placement of these “hot goods” in commerce would violate the provisions of Section 15(a)(1) of the Act.

18. The 53,038 tons of clean coal and 4,202 tons of raw coal at the Pigeon Creek Processing Plant were worked on/processed by employees whom Defendants failed to pay the overtime premium rate for hours worked over forty in a workweek, and the federal minimum wage in violation of Sections 6 and 7 of the Act during the relevant period. Accordingly, the 53,038 tons of clean coal and 4,202 tons of raw coal at the Pigeon Creek Processing Plant were worked on/processed in violation of the minimum wage and overtime requirements of Sections 6 and 7 of the Act. The shipment, sale, transport, or otherwise placement of these “hot goods” in commerce would violate the provisions of Section 15(a)(1) of the Act.

19. Defendants allege they sold some or all of the coal located in Virginia (“Virginia Coal”), including coal located at Raven Dock, Flat Rock and Pigeon Creek, to BJMS. Defendants are still in possession of that Virginia Coal, but BJMS contends it is entitled to some or all of the Virginia Coal. Accordingly, Plaintiff is seeking a temporary restraining order and

preliminary injunction against both Defendants and BJMS to ensure they do not transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed by Defendants in violation of Sections 6 or 7 of the Act, i.e., the Virginia Coal.

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendants providing the following relief:

(a) For a temporary restraining order enjoining and restraining Defendants, their agents, servants, employees and all persons in active concert or participation with them, and BJMS, their agents, servants, employees and all persons in active concert or participation with them, from violating the provisions of sections 15(a)(1) of the Act; and

(b) For a preliminary injunction enjoining and restraining Defendants, their agents, servants, employees, and those persons in active concert or participation with them, and BJMS, their agents, servants, employees and all persons in active concert or participation with them, from violating the provisions of §15(a)(1) of the Act during the pendency of this action; and

(c) For an injunction issued pursuant to Section 17 of the Act permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants who receive actual notice of any such judgment, from violating the provisions of Sections 6, 7, 15(a)(1), and 15(a)(2) of the Act; and

(d) For judgment pursuant to Section 16(c) of the Act finding Defendants liable for unpaid minimum wage and overtime compensation due to certain of Defendants' current and former employees listed in the attached Schedule A for the period of June 10, 2019 through at least July 1, 2019, and for an equal amount due to certain of Defendants' current and former

employees in liquidated damages. Additional amounts of back wages and liquidated damages may also be owed to certain current and former employees of Defendants listed in the attached Schedule A for violations taking place before June 10, 2019 and continuing after July 1, 2019, and may be owed to certain current and former employees presently unknown to the Secretary for the period covered by this Complaint, who may be identified during this litigation and added to Schedule A; or

(d) In the event liquidated damages are not awarded, for an injunction issued pursuant to Section 17 of the Act restraining Defendants, their officers, agents, employees, and those persons in active concert or participation with Defendants, from withholding the amount of unpaid minimum wages and overtime compensation found due Defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621.

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

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Bailey, Darwin E	Booher, Michael G	Chandler, Gene M
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Baker, Charles D	Bowen, Michael S	Charles, Tommy L
Baker, William C	Bowman, Bradley R	Church, Kimrick L
Baldwin Jr., Bill J	Bowman, Christopher N	Clark, Anthony B
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Ball, Gerald D	Boyd, Randall K	Clark, Michael D
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Begley, Jonathan E	Brown, Donnie	Coburn, Terry M
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Colley, Andrew K
Collins Jr, Jimmy D
Collins, Dana
Collins, Keith T
Collins, Travis L
Cook, Michael G
Cook, Randall
Cook, Shawn B
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Cooper, Allen
Coots, Carl J
Coots, Joshua J
Cope, Darrell W
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Edens, Jared M
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Eldridge Jr., Gregory D
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Evans, Jeffrey W
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Fannon, Billy D
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Fletcher, Stevie A
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Fuller, Marty A
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Garrett, Keith L
Garrette, Michael J
Gentry, Joshua
Gibson, Robert A
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Golden, Charles S
Gollaway, Daniel W
Gooden, Justin C
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Green, Michael D
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Griffith III, Earl W
Griffith, Gary
Grigsby, Kenneth L
Grizzel, Mathew D.
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Hall, Joey S
Hall, John Shawn
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Hammonds, Jeffery C
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Harris, Kevin W
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Harrison, Steven
Harvey, Joseph W
Hatton, Billy
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Haynes, Tyler A
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Helbert, Jeffrey
Helton, Brandon J
Helton, Jacob D
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Helton, Scottie
Helton, Walter
Hensley II, Charles E
Hensley, Glen M
Hess, Mark E
Hess, Shannon Wayne
Hickey, Jerry
Hicks, Richard
Hileman, Teddy A
Hill, Jeffery R
Holdway, Travis D
Holman, Leslie
Honaker, Barry
Honaker, Bradley
Honaker, Christopher G
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Horn, Bobby Joe
Horn, Dave Thoma
Hoskins, Bige A
Hounshell, Walter W
Housley, Jerry W
Howard Jr, Josh
Howard, Brandon S
Howard, Gavin B
Howard, John L
Howell, Roy M

Hudson, Jeffrey Paul
Hudson, Johnathan
Hughes, Mark D
Hurley, Derek L
Hylton, Avery
Inscore, David S
Isom, Wesley S
Jackson, Hubert M
Jessee, Dakota Mason
Jessee, Paul S
Jewell, Rufus
Johnson, Eales A
Johnson, Kyle Wayne
Johnson, Timothy W
Johnson, Tyler H
Jonas, Gary
Jones, David L
Jones, Jonathan P
Justice, Mickey
Justus Jr, Samuel
Justus, Donovan N
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Keen, Brian D
Keen, Jessie M
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Keen, Ricky B
Keene, Damian
Kegley, Curtis
Kegley, Samuel D
Kelly Jr, Roger D
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Kelly, Joshua L
Kennedy, John R
Kincaid, Christopher M
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Kiser, Robert G
Krahenbuhl, George W
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Lee, Roggie O
Lemaster, Mark A
Leonard, Joseph A
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Lester, Randall T
Lewis (Huff), William A
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Lewis, Christopher G
Little, Harlin D
Livingston, Jeremy W
Locksston, Kevin
Long, Gary Dalto
Long, Gary W
Long, Noah C
Long, Perry W
Lowe, Kevin E
Lundy, Jonathan G
Lunsford, Michael A
Mabe, James S
Madden, Lee
Madden, Thomas Lee
Madon, Kameron Adam
Maggard, Scott A
Malone, Walter O
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Marion, William
Massengale, Michael S
Matney, Kelby K
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McCoy, Lester B
McCoy, Michael S
McCray, Roger D
McFarland, William T
McKnight, Joshua L
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Meade, Chris D
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Mefford, Gregory S
Middleton, James B
Middleton Jr., Billy G
Middleton, Henry L
Middleton, Michael B
Middleton, Robbie C

Miles, William R
Miller, George C
Miller, Ronnie L
Miniard, Jimmy L
Miniard, Joseph
Mitchell, Charles D
Mitcheum, John L
Moore, Allen S
Moore, Billy J
Moore, Charles K
Moore, David
Moore, Jesse J
Moore, Justin C
Morales, Erik R
Morelock, John E
Mullins, Auty A
Mullins, Cody
Mullins, James C
Mullins, Johnathan L
Mullins, Timothy Adam
Music, Colton J
Music, Kevin L
Napier, Brian
Neal, Charles E
Nelson, Wesley E
Nichols, Blake
Noe, Benjamin M
O'Neal, Ryan K
Orr, David S
Osborne, Clyde P
Overbay, Stephen T
Owens, Bobby R
Owens, Dwayne C
Owens, Stephen T
Paragon Jr, Roy
Payne, Lee M
Peace, Christopher A
Peak, Thomas C
Pendergrass, Kevin
Penix, Roger M
Pennington, Darrell
Perkins, Devan A
Perkins, James N
Phipps, Arvil J
Pierson, Josh N
Posey Jr., Ronald

Potter, George
Powers, Adam S
Presley, Ethan
Presley, Ethan A
Price, Bill R
Price, Charles E
Pridemore, Jonathan E
Pridemore, Jonathan Tyler
Puckett, Brandon L
Raleigh, Darrell
Raleigh, Richard P
Ramey, Taylor D
Randolph, Adam Harle
Rasnake, Marty D
Ratliff, Kenneth H
Ratliff, William R
Reed, Clarence James
Rife, Cecil Todd
Robbins, Paul N
Roberts, Rickey A
Roberts, Timothy B
Rorrer, Kevin W
Rose, Jarred R
Rose, Joel D
Rowan, Donald Ray
Rutherford, Rickey
Sansom, Herman L
Sargent, James M
Sayers, William E
Saylor, Brandon M
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Saylor, Wade A
Scammell, Christopher
Seals Jr., Gregory J
Seals, Gregory J
Sharrett III, Owen A
Shell, Zachary L
Shelton, Jacob N
Shepherd, David A
Shepherd, Rueben A
Shirks, Shawn R
Shortridge Jr, Perry F
Shortridge, Jason S
Shortridge, John P

Shortridge, Joshua P
Simpson, Gregory
Simpson, Waylon S
Sizemore, Timothy Lee
Skidmore, Keith
Slone, Allan Wayne
Slone, Vernon D
Sluss, Billy R
Sluss, Charles M
Smith (Huff), Robert D
Smith, Daniel L
Smith, Jeffery D
Smith, Jeffrey S
Smith, Michael L
Smith, Nathaniel
Smith, Richard L
Smith, Robert L
Smith, Thomas J
Snodgrass, Robert T
Snodgrass, Steven B
Spears Jr, Jackie
Spears, Jimmy D
Stacy Jr., Leroy
Stacy, Bueford H
Stacy, John
Stacy, Larry Micha
Stacy, Nathaniel D
Stacy, Ryan B
Stacy, Sidney W
Stacy, William L
Stamey, Cody A
Stamper, Richard
Stanley, Jason E
Stanley, Johnathon N
Stanley, Printess Willi
Stapleton, Robert Allen
Steele, Michael E
Stewart, Jacob Rober
Stewart, Jason R
Stewart, Jonathan L
Stewart, Larry J
Stewart, Michael J
Stewart, Tony R
Stidham, David R
Stidham, Matthew W
Stiltner, Carl K

Stiltner, Christopher T
Stiltner, Jeffrey S
Stiltner, Phillip D
Stiltner Jr., Timothy W
Stilwell, Aaron E
Stinson, Cody L
Street, Bradley
Street, David A
Strouth, Jeffery D
Sturgeon, Jeffery G
Taylor, Christopher B
Taylor, Danny R
Taylor, Jimmy D
Taylor, Kenny A
Taylor, Mark
Thacker, Billy R
Thacker, Matthew
Thomas, Charles D
Thomas, Dwight D
Thomas, Timothy D
Thomas, Travis L
Thompson, Stephen D
Thornsberry, Ian A
Tiller, Jeffrey N
Tomlinson, John B

Tremblay, Kristopher
Tritt, Rodney L
Trusty, Kelly
Turner, David P
Turner, Gary R
Turner, Gregory A
Turner, Jordan L
Turner, Larry W
Turner, Micky
Underwood, Richard W
Vance, Bryson Wayne
Vance, Estil W
Vance, Timothy R
Vannatter, Austin D
Vannatter, Tommy D
Vanover, Joseph Wayne
Varney, Mark R
Viers, Christopher D
Wade, Michael P
Waldron, Rodney J
Walls, Derick Lee
Ward, James
Webb, Jack R
Webb, Perry L
Wells Jr, Jackie R

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Whitaker, Allen L
White, Derek A
White, Jeffery W
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Whited, Paul David
Whitehead, Carson
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Williams, James
Williams, Thomas A
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